

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 90-99-T - ORDER NO. 90-951

October 22, 1990

IN RE: Application of Goggin Truck Line )  
Company, Inc., 1211 East Lane ) ORDER  
Street, P.O. Box 1067, Shelbyville, ) GRANTING  
TN 37160, for a Class E Certificate ) CERTIFICATE  
of Public Convenience and Necessity. )

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed February 12, 1990, by Goggin Truck Line Company, Inc. (the Applicant) for a Class E Certificate of Public Convenience and Necessity to render motor freight service over irregular routes only, as follows:

COMMODITIES IN GENERAL, AS DEFINED IN R.103-211(1);  
ALSO EXCLUDING BANK COURIER COMMODITIES AND COMMODITIES  
COMMONLY TRANSPORTED IN ARMORED VEHICLES: Between  
points and places in South Carolina.

Subsequent to the initiation of this proceeding, the Commission Staff instructed the Applicant to cause to be published a prepared Notice of Filing in certain newspapers of general circulation in the State of South Carolina. The Notice of Filing indicated the nature of the Application and advised all interested parties desiring to participate in the proceeding of the manner and time in which to file the appropriate pleadings. The Notice of Filing was duly published in the State Register.

Petitions to Intervene were timely filed by Southeastern Freight Lines (Southeastern) and Greenwood Motor Lines, Inc. (Greenwood).

Pursuant to notice duly given, a hearing was held at the Offices of the Commission on September 20, 1990, the Honorable Marjorie Amos-Frazier presiding. The Applicant was represented by Arthur G. Fusco, Esquire; Intervenor Southeastern was represented by F. Lee Prickett, Jr., Esquire; and the Commission Staff was represented by H. Clay Carruth, Staff Counsel. Intervenor Greenwood did not appear, but indicated a desire to retain status as a Protestant.

Testifying on behalf of the Applicant were: Pat Marsh, President of Goggin Truck Line Co., Inc. of Shelbyville, Tennessee; Lloyd Waters, Distribution Manager of Southern Coatings of Sumter, South Carolina; and Tommy Gibbes, an official of Gibbes Machinery in Spartanburg County, South Carolina.

Testifying on behalf of Intervenor Southeastern were: Ladimer Havlina, General Manager of AMSPAC Florence Paper Co. of Florence, South Carolina; Roger Legg, co-owner of Unique Systems of Lexington, South Carolina; and John C. Rader, Vice President of Pricing and Traffic for Southeastern Freight Lines of Columbia, South Carolina.

According to S.C. Code Ann., §58-23-330 (1989 Cum. Supp.), an applicant applying for a certificate to operate as a motor vehicle common carrier may be approved upon a showing that the applicant is fit, willing and able to appropriately perform the proposed

service; provided, however, if an intervenor shows or if the Commission determines that the public convenience and necessity is already being served, the Commission may deny the application.

If an application is denied, another application may not be made until at least six months have elapsed since the date of the denial.

#### FINDINGS OF FACT

Upon consideration of the information contained in and attached to the Application, and the testimony and exhibits of the witnesses, the Commission finds the following facts:

1. That the Applicant is a less than truckload (LTL) general commodities carrier serving North Carolina, South Carolina, and Tennessee, primarily on an interstate basis.

2. That the Applicant has Interstate Commerce Commission (ICC) authority to provide contract and common interstate motor carrier services.

3. That the Applicant has motor carrier authority to provide intrastate service in the States of Tennessee and North Carolina.

4. That the Applicant currently serves South Carolina on an interstate basis, maintaining terminal facilities in Cayce and Spartanburg.

5. That the Applicant has been in the for hire motor carrier business since 1917, and is one of the oldest motor carriers in the Country.

6. That the Applicant currently has stationed eight (8) employees [of whom six (6) are drivers] and fourteen (14) pieces of

equipment [four (4) tractors and ten (10) trailers] at its Cayce, S.C. terminal; and, the Applicant currently has stationed nine (9) employees, five (5) tractors, and from twelve (12) to fifteen (15) trailers at its Spartanburg, S.C. terminal.

7. That the Applicant has a total net worth of approximately \$955,000.00.

8. That the Applicant has a full-time Safety Director who conducts safety meetings on a monthly basis at each of the Applicant's facilities.

9. That the Applicant has a comprehensive safety program, a part of which involves pre-employment drug test screening of drivers.

10. That the Applicant maintains liability insurance coverage with a \$5,000,000.00 liability limit.

11. That the Applicant has a regular equipment maintenance program by which regularly scheduled preventive maintenance is performed and all applicable United States Department of Transportation (USDOT) safety standards are observed and complied with.

12. That the Applicant has a "satisfactory" USDOT safety rating.

13. That the Applicant intends, and is able, to add terminal facilities, employees, and equipment to serve the South Carolina intrastate market if its Application is approved and a Certificate granted.

14. That there is only some speculative possibility, and that

only remote, that the entry of the Applicant into the market in question might have an adverse impact upon the ability of currently certificated South Carolina intrastate motor carriers to provide service to the public in the future.

CONCLUSIONS OF LAW

Section 58-23-330, supra, imposes upon an applicant the burden of demonstrating that it is fit, willing and able to appropriately perform the proposed motor carrier services. The Statute imposes upon any intervenor(s) the burden of demonstrating that the public convenience and necessity is already being served by those certificated motor carriers authorized to provide the motor carrier services for which the applicant seeks authority.

Based on the facts found hereinabove, as well as the evidence in the entire record herein, the Commission finds and concludes that the Applicant has demonstrated its fitness, willingness and ability to appropriately perform the proposed motor carrier services, while the Intervenor has not demonstrated that the public convenience and necessity is already being served by it and/or other certificated motor carriers authorized to provide the proposed motor carrier services.

Therefore, the Commission reaches the following conclusions of law:

1. That the Applicant is fit, willing and able to appropriately perform the proposed motor carrier services.
2. That the public convenience and necessity is not already being served as to the motor carrier services proposed in the

instant Application.

IT IS THEREFORE ORDERED:

1. That the Application of Goggin Truck Line Company, Inc. for a Class E Certificate of Public Convenience and Necessity be, and hereby is, approved.

2. That the Applicant file the proper license fees and other information required by S.C. Code Ann., Section 58-23-10 et seq. (1976), as amended, and by R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

3. That upon compliance with S.C. Code Ann., Section 58-23-10, et seq (1976) as amended, and the applicable provisions of R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, a certificate shall be issued to the Applicant authorizing the motor carrier services granted herein.

4. That prior to compliance with such requirements and receipt of a certificate, the motor carrier services authorized herein may not be provided.

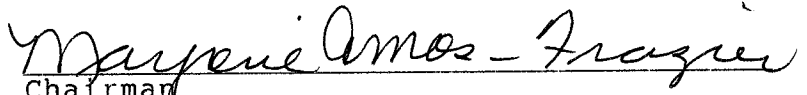
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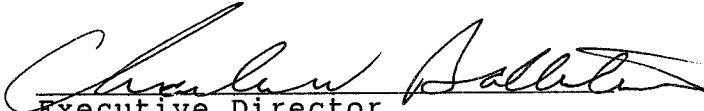
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5. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)